

WILLIAM HOLLOMAN,	:	Order Dismissing Appeal
Appellant	:	
	:	
v.	:	Docket No. IBIA 97-19-A
	:	
PORTLAND AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	November 25, 1997

Appellant William Holloman appealed from an August 26, 1996, decision issued by the Portland Area Director, Bureau of Indian Affairs (Area Director; BIA). Inter alia, the Area Director's decision adjusted Appellant's rental rate for a residential/recreational lease in the Pull and Be Damned area of the Swinomish Indian Reservation. For the reasons discussed below, the Board of Indian Appeals (Board) dismisses this appeal.

On November 17, 1997, the Board received a motion from the Area Director seeking the dismissal of this appeal on the grounds that Appellant, who is now deceased, had resolved his dispute with BIA by assigning his interest in the lease to a third party. The Area Director stated that attempts had been made to file a joint motion for dismissal with Appellant's counsel, but that Appellant's counsel had not responded to a proposed joint motion. In a Declaration attached to the Motion to Dismiss, counsel for the Area Director stated that, in a September 16, 1997, conversation, Appellant's counsel informed counsel for the Area Director that he had prepared a motion to dismiss which he had sent to Appellant's daughter, telling her to submit it after the settlement was finalized. No motion to dismiss this appeal was filed prior to the Area Director's motion.

The Area Director similarly sought dismissal of an appeal from the August 26, 1996, decision that was filed by Charlotte Thiringer. There, the Area Director submitted copies of two letters from Thiringer which showed her intent to withdraw her appeal. Thiringer v. Portland Area Director, 31 IBIA 295 (1997). The Area Director apparently had no such written documentation of intent from Appellant.

On the basis of the Declaration from the Area Director's counsel, it appears that Appellant and/or his heirs intended to withdraw this appeal. On the strength of the Declaration, the Board dismisses this appeal on the grounds that the dispute has been resolved.

Alternatively, if it is later shown that Appellant and/or his heirs did not intend to withdraw their appeal, the Board affirms the Area Director's August 26, 1996, decision as it relates to Appellant for the reasons set forth in Elliott v. Portland Area Director, 31 IBIA 287 (1997).

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal from the Portland Area Director's August 26, 1996, decision is dismissed as moot.

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Kathryn A. Lynn  
Chief Administrative Judge

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Anita Vogt  
Administrative Judge